

12/015/062

FAX TRANSMITTAL
MOAB DISTRICT OFFICE
PRICE AREA HEADQUARTERS

TO: Holland Shepherd UDOGMFROM: Mark MacKiewiczSUBJECT: ECDC - TrespassNUMBER OF PAGES: 8

(Including cover sheet)

DATE: 2-1-93TIME: 2:37

FAX MACHINE NO. _____

COMMENTS: I've sent

Some additional Info to
help you see the
Situation. Call me
if you have any questions

UT-060-1542-1
(October 1991)

Mark

2810
UTU-69310
(U-066)

Moab District
Price River Resource Area
900 North 700 East
Price, Utah 84501
(801) 637-4584

CERTIFIED MAIL--Return Receipt Requested
Certification No. 696 295 577

SEP - 9 1992

NOTICE OF TRESPASS

Mr. Harold Marston
Vice President of Landfill Operations
East Carbon Development Corporation
P. O. Box 69
East Carbon, Utah 84520

Dear Mr. Marston:

The United States of America, through the Bureau of Land Management, has instituted trespass proceedings against you for the unauthorized development and the unnecessary and undue degradation of public lands. Such action is pursuant to Title 43 of the Code of Federal Regulations, part 2801.3 under authority of the Federal Land Policy and Management Act of 1976 (90 Stat. 2776, 43 U.S.C. 1761).

Such action consisted of widening a county road without a right-of-way authorization, constructing drainage control structures without proper authorization, altering a stream channel without proper permits, damaging livestock control structures, and for the unnecessary and undue degradation of public lands.

The alleged trespass occurred on the following described public lands:

Salt Lake Meridian, Utah
T. 15 S., R. 12 E.,
secs. 23, 26, 27, 31, 33, and 34.

T. 16 S., R. 12 E.,
secs. 4, 5, and 6.

If you have evidence or information which tends to show you are not a trespasser as we have alleged, you are allowed fifteen (15) days from receipt of this notice to present such evidence or information at the Bureau of Land Management office at 900 North 700 East, Price, Utah 84501. Failure to respond to this notice in a timely manner may result in additional trespass penalties.

Dated this 9 day of Sept., 1992.

MARK E. BAILEY

Mark E. Bailey, Area Manager

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ECDC.not

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece next to the article number.

3. Article Addressed to:

Mr. Harold Marston
Vice President of Landfill Operations
East Carbon Development Corporation
P.O. Box 69
East Carbon, UT 84520

5. Signature (Addressee)

6. Signature (Agent)

also wish to receive the following services (for an extra fee):

☐ Addressee's Address

☐ Restricted Delivery

Consult postmaster for fee.

4a. Article Number

P 696 295 577

4b. Service Type

☐ Registered ☐ Insured

☒ Certified ☐ COD

☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

8. Addressee's Address (Only if requested and fee is paid)

NICK SAMPINOS

Attorney at Law

First Interstate Bank Bldg.
80 West Main, Suite 201
Price, Utah 84501

Telephone: (801) 637-8100

Fax: (801) 637-0220

October 5, 1992

VIA - FACSIMILE 637-4584

CERTIFIED - P 696 296 077
RETURN RECEIPT REQUESTED

Bureau of Land Management
Price River Resource Area
900 North 700 East
Price, Utah 84501

Attn: Mark E. Bailey, Area Manager

RE: Notice of Trespass

Mr. Bailey:

This letter is submitted on behalf of the East Carbon Development Corporation (ECDC) concerning your letter to Mr. Harold Marston involving an alleged Notice of Trespass. ECDC hereby responds as follows:

First, ECDC denies any and all responsibility for the alleged trespass described in your letter of September 9, 1992. Please understand that on September 9, 1992, ECDC was in the process of finalizing construction of its municipal solid waste landfill facility in East Carbon City, Utah. Construction of the facility was performed by East Carbon Constructors, Inc. (ECCI), a Utah corporation. ECDC's contract with ECCI specifically called for the delivery of clay materials to ECDC's site. Pursuant to that contract, ECDC was not and is not directly involved in the extraction of clay materials and haulage of the same on the public lands described in your letter of September 9, 1992.

Second, even though ECDC has no direct responsibility with respect to the alleged trespass described in your letter, ECDC has agreed with its contractor to respond to your concerns as follows:

1. ECDC will work with its contractor, ECCI, to replace the damaged cattle guard;
2. ECDC and its contractor, ECCI, are working with Asa Nielson to conduct an archeological survey of the disturbed area;

COPY

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

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RECEIVED
SAN RAFAEL & PRICE RIVER
RESOURCE AREAS

Mark E. Bailey, Area Manager
Bureau of Land Management
October 5, 1992
Page 2

3. ECDC and its contractor, ECCI, will work with WRR to revegetate the disturbed area; and
4. ECDC will work with its contractor, ECCI, and you to resolve any and all other concerns which you and your staff may have concerning removal of clay materials and the operations of ECDC's contractor on the public lands described in your letter of September 9, 1992.

I trust that this letter will satisfy some of your concerns. I further suggest that representatives of ECDC, ECCI and the Price River Resource Area BLM office meet as soon as possible to address the remaining concerns.

I will await to hear from you.

Sincerely,

Nick Sampinos

Nick Sampinos
Attorney for East Carbon
Development Corporation

NS/nn

xc: R Steve Creamer, President, ECDC
Harold R. Marston, ECDC Landfill Manager
Hank Regulaki, ECCI
Mark Mackiewicz, BLM, Price office

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UTU-69310
(U-066)

United States Department of the Interior
Bureau of Land Management
Moab District
Price River Resource Area
900 North 700 East
Price, Utah 84501

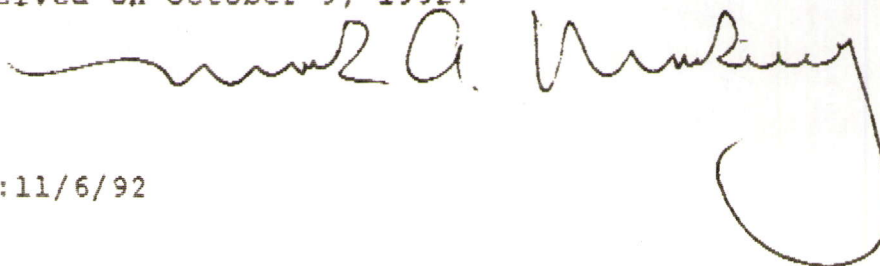
STAFF REPORT

Title: ECDC Trespass-Sampino Response

Date: October 6, 1992

On October 6, 1992, we received a letter dated October 5, 1992, from Nick Sampino in response to a Notice of Trespass that the firm East Carbon Development Corporation (ECDC) had received.

In his letter, Mr. Sampino stated that ECDC denied any and all responsibility for the alleged trespass. He stated that it was their contractor East Carbon Constructors that had been contracted to deliver clay for ECDC and they were the entity involved with the road. On October 8, 1992, we issued a Notice of Trespass to ECCI which they received on October 9, 1992.



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2810
UTU-69310
(U-066)

Moab District
Price River Resource Area
900 North 700 East
Price, Utah 84501
(801) 637-4584

OCT - 8 1992

CERTIFIED MAIL--Return Receipt Requested
Certification No. 696 298 131

NOTICE OF TRESPASS

Mr. Hank Requiski
Project Manager
East Carbon Constructors Incorporated
P. O. Box 880
East Carbon, Utah 84520-0880

Dear Mr. Requiski:

The United States of America, through the Bureau of Land Management, has instituted trespass proceedings against East Carbon Constructors for the unauthorized development and the unnecessary and undue degradation of public lands. Such action is pursuant to Title 43 of the Code of Federal Regulations, part 2801.3 under authority of the Federal Land Policy and Management Act of 1976 (90 Stat. 2776, 43 U.S.C. 1761).

Such action consisted of widening a county road without a right-of-way authorization, constructing drainage control structures without proper authorization, altering a stream channel without proper permits, damaging livestock control structures, and for the unnecessary and undue degradation of public lands.

The trespass occurred on the following described public lands:

Salt Lake Meridian, Utah

T. 15 S., R. 12 E.,

secs. 23, 26, 27, 31, 33, and 34.

T. 16 S., R. 12 E.,

secs. 4, 5, and 6.

We received a letter on October 6, 1992, from Mr. Nick Sampino representing the East Carbon Development Corporation (ECDC). We had originally sent a notice of trespass to ECDC. ECDC denies any and all responsibility for the trespass. However, they have informed us that they would be working with you to resolve the situation and reclaim the area.

Based on the response from ECDC and conversations we have held with you, the United States finds East Carbon Constructors to be the responsible party in this case.

Another purpose of this notice is to notify you of what your liability is regarding the unauthorized use of public lands. The following is a brief listing of your liability. A detailed listing can be found in Title 43 of the Code of Federal Regulations part 2801.3.

1. Reimbursement of all costs incurred by the United States in the investigation and termination of such trespass.
2. The rental value of the lands.
3. Rehabilitating and stabilizing any lands harmed by such trespass.

We will be drafting a settlement agreement which you should receive next week.

If you have evidence or information which tends to show you are not a trespasser as we have alleged, you are allowed seven (7) days from receipt of this notice to present such evidence or information at the Bureau of Land Management office at 900 North 700 East, Price, Utah 84501. Failure to respond to this notice in a timely manner may result in additional trespass penalties.

Dated this _____ day of _____, 1992.

/s/ DEAN NYFFELER

Dean Nyffeler, Acting Area Manager

MMackiewicz:mm:10/8/92
ECDC.not